

NEBRASKA ADMINISTRATIVE CODE

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TITLE 48 - DEPARTMENT OF BANKING AND FINANCE

CHAPTER 36 - GENERAL OBLIGATION FINANCING BY RELIGIOUS DENOMINATIONS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to the disclosure requirements for an offering of debt securities in the form of general obligation financing issued by a religious denomination, or a national or regional unit thereof, or other entity affiliated or associated therewith (collectively a "church extension fund"), is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

001.05 This Rule is not applicable to single project financing by individual churches or congregations. Such securities offerings must conform to the requirements of 48 NAC 35.

002 DEFINITIONS. The following definitions, in addition to definitions contained in 48 NAC 2, shall apply to this Rule:

002.01 Advertising means any advertisement or promotional materials, including, but not limited to, magazine or newsletter advertisements, postings on the Internet, brochures, video tapes, fliers, church bulletin inserts and mailers, that are used, in addition to offering circulars, to solicit investors.

002.02 Audited financial statements means financial statements prepared in accordance with generally accepted accounting principles applied on a

consistent basis, and examined and reported upon by an independent certified public accountant.

002.03 Church extension fund ("CEF") means a unit or division of a denomination, or another entity affiliated or associated with a denomination, that offers and sells notes primarily to provide funding for loans to various affiliated churches and related religious organizations of the denomination, for any construction and other related capital improvements or operating needs.

002.04 Denomination means a national or regional religious organization or association that consists of or acts on behalf of its individual affiliated churches as well as various national or regional administrative and other religious organizations or units affiliated with the denomination.

002.05 Denominational accounts means demand and short-term obligations and accounts issued by the issuer and held by national, regional or other affiliated units, institutions or organizations of the denomination, exclusive of demand and short-term notes which are generally offered and sold through offering circulars pursuant to the registration, exemption or qualification process.

002.06 Investor(s) means the person(s) who purchase(s) notes.

002.07 Loan delinquency means a borrower's loan balance on which payments of principal or interest are delinquent 90 days or more, whether in default or not.

002.08 Net income means all items of issuer income and revenue, including operating income, gift revenues and gains or losses from investments, less all items of expense, as reflected in the issuer's audited financial statements.

002.09 Net worth means the unrestricted equity or fund balance that represents the difference between assets and liabilities, as reflected in the issuer's audited financial statements. Internally restricted funds may be considered unrestricted for this purpose.

002.10 Notes means notes, certificates, or similar debt instruments issued by an issuer which represent a general unsecured obligation to repay a specific principal amount, at a stated or variable rate of interest, when due.

002.11 Offering circular means the disclosure document prepared by the issuer.

002.12 Seasoned issuer means a CEF that, alone or through a predecessor organization, has been in continuous existence for more than ten (10) years, has offered notes for more than ten (10) years, and has paid or otherwise satisfied all uncontested obligations to pay principal and interest on its notes in a timely manner.

002.13 Senior secured indebtedness means any debt or debt securities incurred or issued by a CEF and secured by assets of the CEF in such a manner as to have a priority claim against any of the assets of the CEF over and above the notes.

003 REQUIREMENTS.

003.01 Any CEF intending to offer and sell notes to Nebraska residents shall comply with the disclosure provisions of the Act.

003.02 The notes shall be offered and sold without the payment of any direct or indirect underwriting, sales or similar fees, or commissions.

003.03 An CEF shall comply with the applicable broker-dealer, issuer-dealer, and agent licensing requirements.

004 LIMITED CLASS OF INVESTORS. The notes shall be sold to a limited class of investors, defined by the issuer to be consistent with its operations and compatible with the structure, organization and theology of its denomination.

005 ADVERTISING. Any advertising used by the issuer must comply with the following standards:

005.01 Advertising shall set forth that:

005.01A The advertising does not constitute an offer to sell or the solicitation of an offer to buy;

005.01B There shall not be any sale of the securities in any state in which such offer, solicitation or sale is not authorized; and

005.01C The offering is made solely by the offering circular.

005.02 Advertising may be directed only to persons who fall, or potentially will fall, within the limited class of investors described in Section 004 above.

005.03 Advertising shall not contain any statements, data or information that:

005.03A Is inconsistent with the statements, data or information set forth in the offering circular; or

005.03B When read in connection with the offering circular, renders either the offering circular or advertising misleading or confusing.

006 OPERATIONAL AND STRUCTURAL STANDARDS. A CEF shall be organized and shall operate exclusively for religious, charitable or educational purposes and qualify as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

006.01 The notes shall be exempt from registration pursuant to the provisions of Section 3(a)(4) of the Securities Act of 1933, as amended.

006.02 The notes shall be offered under one or more programs of general obligation financing.

006.02A The notes shall not be specifically secured by particular loans to specific borrowing entities.

006.02B The proceeds from the notes shall be deposited to a general fund from which the CEF makes and completes commitments for loans primarily to churches and religious organizations affiliated with the denomination.

006.02C To the extent that a material amount of operating revenues or expenses of the CEF arise out of activities other than general

obligation financing programs, appropriate disclosure of such activities shall be made.

006.02D In all cases there shall be a separate accounting for the operations of the CEF.

006.03 Except as provided, notes shall be of the same rank and priority as the issuer's other debt securities and debt obligations.

006.03A The amount of any senior secured indebtedness to which the notes are or will be subordinated shall not exceed ten percent (10%) of the tangible assets of the CEF. Senior secured indebtedness, within the operation of the CEF, may be:

006.03A1 A mortgage loan incurred for the purchase of an advance church site or headquarters building; and/or

006.03A2 A secured operating line of credit with a commercial financial institution.

006.03B To the extent that such subordination of the notes exists, appropriate disclosure shall be required.

007 FINANCIAL STANDARDS. A CEF shall comply with the following financial standards in reference to whether the issuer can reasonably expect to repay the notes, when due, in the ordinary course of its business.

007.01 At the end of its most recent fiscal year, the issuer's net worth shall be positive and at least equal to three percent (3%) of its total assets.

007.02 At the end of its most recent fiscal year, the issuer's cash, cash equivalents and readily marketable assets shall have a market value of at least five percent (5%) of the principal balance of its total outstanding notes.

007.03 For each of the issuer's three most recent fiscal years and, as estimated, for each of the issuer's next two fiscal years, the issuer's available cash shall equal or exceed its cash redemptions, exclusive of denominational accounts. In determining available cash, the issuer shall consider:

007.03A Cash provided by its normal operating activities;

007.03B The market value of its liquid assets at the beginning of the fiscal year;

007.03C Loan principal repayments;

007.03D Cash generated from the sale of notes, exclusive of denominational accounts, except to the extent that year-end redemptions exceed deposits to, or investments in, such denominational accounts during its fiscal year;

007.03E Funds from other sources; and

007.03F Loan disbursements.

007.04 Loan delinquencies during the issuer's most recent fiscal year, reviewed in light of its historical operating experience, shall not be excessive and shall be at such a level that the overall quality of its loan portfolio will allow the issuer:

007.04A To maintain a positive net worth; and

007.04B Receive the timely repayments of sufficient loan principal necessary to meet the liquidity and cash flow requirements as set forth in Sections 007.02 and 007.03 above.

007.04C When the loan delinquencies become material, the extent of the loan delinquencies and the quality of the issuer's loan portfolio should be disclosed as risk factors in the offering circular.

007.05 The issuer's net income, less any non-recurring or extraordinary items, for three of its last five fiscal years shall be positive.

007.06 A seasoned issuer shall be deemed to comply with the above financial standards in any given fiscal year, if it can show that:

007.06A It has fulfilled the requirements of the financial standards for at least three out of its five most recent fiscal years;

007.06B The average of its five most recent fiscal years reflects compliance with the financial standards; or

007.06C The information and data furnished indicates the ability of the seasoned issuer to repay its notes and other debt obligations when due in the ordinary course of its business.

008 ISSUANCE OF NOTES. An issuer that meets the standards of this Rule shall be entitled to offer and sell its notes under the following provisions:

008.01 Trust indentures or sinking funds shall not be required in connection with the notes.

008.02 Notes, upon maturity, may be extended or rolled over under the expressed terms and conditions stated in the offering circular, if:

008.02A Each investor is provided with written notification of the maturity and the proposed extension or rollover of the notes at least 30 days prior to the maturity dates of the notes; and

008.02B Each investor is or has been provided with the issuer's most current offering circular.

008.02C If the investor notifies the issuer in writing, on or prior to the maturity date, that the investor elects not to extend or roll-over the

note, the issuer promptly shall repay the principal and interest accrued thereon.

008.03 Notes may contain provisions pursuant to which interest payable thereon may be retained and compounded.

009 DISCLOSURE. The issuer must provide investors with offering circulars prior to their investments which shall include, in narrative or descriptive form, all relevant and material information relating to the issuer and the notes, and any other material information that affects or would affect an investor's decision to purchase the notes, including the following information:

009.01 The offering circular shall contain a cover page which includes:

009.01A The name of the issuer;

009.01B The issuer's principal business address and telephone number;

009.01C A brief description of the notes offered, including interest rates and maturity terms available;

009.01D The total amount of the offering, the estimated offering expenses, and the net proceeds of the offering;

009.01E A statement that the offering is subject to certain risks, with a reference to the page(s) of the offering circular that disclose(s) the risk factors;

009.01F A description of the limited class of investors to whom the notes will be sold;

009.01G Any legends and other information deemed to be appropriate by the Director;

009.01H Any limitations on the sale of the notes to investors in any state; and

009.01I The date of the offering circular.

009.02 The offering circular shall contain all material information on the issuer's history and operations, including:

009.02A A description of the issuer, including the name, address of principal business office, place and date of incorporation, type and nature of the corporation (not-for-profit, tax exempt, etc.);

009.02B A description of the history of the issuer and its denominational affiliation or association;

009.02C A description of the religious purposes of the issuer and the general nature and purposes of its operations;

009.02D A description of the nature and extent of the offering of the notes and the extent of the issuer's offerings on a nationwide basis; and

009.02E A description of the current operations and principal business activities of the issuer.

009.03 The offering circular must describe the risks of investing in the notes, including, if applicable:

009.03A A statement that the notes are unsecured general obligations of the issuer, and the investors will be dependent solely upon the financial condition of the issuer for repayment of principal and interest;

009.03B A statement that no sinking fund or trust indenture has been or will be established;

009.03C A description of the ranking and priority of the notes in relation to the issuer's existing and anticipated future notes and indebtedness;

009.03D A statement that no public market exists for the notes and none will develop and the transferability of the notes is limited and restricted;

009.03E A description of the financial condition of the issuer, including any relevant information concerning its income or losses from operations and any other information relevant to the issuer's ability to make payments of principal and interest on the notes when due;

009.03F A description of the issuer's policy on the maintenance of liquid funds;

009.03G A description of the investor's tax consequences with respect to investments in the notes;

009.03H A statement that the issuer's loans are made primarily to affiliated churches and related religious organizations, including local churches, whose ability to repay the loans depends primarily upon contributions that they receive from their members;

009.03I A description of the loan policies with respect to the issuer's relationship with its affiliated churches and its related religious organizations which distinguish it from commercial lenders;

009.03J A statement of the risks involved in future changes in federal or state laws that may affect the issuer's ability to continue to sell its notes; and

009.03K A statement of the risks involved in the issuer's activities other than its loan operations.

009.03L Statements to the effect that little or no risk is involved in purchasing notes are prohibited and will be regarded as material misrepresentations.

009.04 The offering circular shall describe how the proceeds from the sale of the notes are to be used and other material information related thereto.

009.05 The offering circular shall describe the financing operations and activities of the issuer, including:

009.05A A description and summary, in tabular form, of the issuer's outstanding notes and debt obligations, categorized to the extent necessary to inform an investor of the nature and type of notes and debt obligations that it has sold and incurred, including the principal amounts due at maturity, if the information is not disclosed in the audited financial statements of the issuer or the footnotes attached thereto;

009.05B A description of the receipts that the issuer received from the sale of its notes and the amount of any redemptions that it made on its notes in its prior fiscal year;

009.05C A description and summary, in tabular form, of the amount and nature of the issuer's outstanding loans receivable at the end of its last fiscal year and a summary of maturities of the various outstanding loans receivable of the issuer, if the information is not disclosed in the audited financial statements of the issuer or the footnotes attached thereto;

009.05D A description and summary of the nature and amount of any invested funds which the issuer maintains, pending utilization for its loan activities or maintaining a reasonable liquidity, and a description of the policies of the issuer with respect to the maintenance of such invested funds;

009.05E A description of the issuer's direct and indirect non-related revenues and expenses, if a significant percentage of the issuer's operating revenues or expenses arise out of its non-related operations; and

009.05F A description of any other related material financial information of the issuer's financial activities and operations that relate to its ability to repay the principal and interest on its outstanding notes and other debt securities when due.

009.06 The offering circular shall describe the lending activities of the issuer, including, if applicable:

009.06A The nature and types of its loans receivable;

009.06B The issuer's loan policies;

009.06C Material loans made to a single borrower;

009.06D The nature and extent of any material loan delinquencies for its last three fiscal years; and

009.06E The nature and extent of any material loan losses that the issuer has incurred within its last three fiscal years.

009.07 Selected Financial Data.

009.07A The offering circular shall set forth in tabular form certain selected financial data of the issuer's last five fiscal years, including cash and liquid reserve balances, outstanding notes and debt obligations, outstanding loans receivable, fund balances, and net income or loss.

009.07B The issuer should include, to the extent relevant and material, any discussion and analysis by management of the issuer that will assist investors in understanding the nature of the operations

of the issuer and the occurrence of any items of income or loss arising out of its operations.

009.08 The offering circular shall contain all material information on the notes, including:

009.08A A description of the type and nature of the notes and the manner in which the interest thereon will be computed and/or accrued;

009.08B A description of the terms of the notes, including any right to early redemption and any penalties that will be applied thereto;

009.08C A description of the nature of cash or cash equivalent that will be acceptable for purchase of the notes;

009.08D A description of the restrictions and limitations on transferability of the notes; and

009.08E A description of the ranking and priority of the notes in relation to other indebtedness of the issuer.

009.09 The offering circular shall contain all material information regarding the distribution of the securities, including:

009.09A A description of the method and manner in which the notes will be offered and sold to investors, including the methods of solicitation and subscription; and

009.09B A statement that no underwriting or selling agreements exist and that no direct or indirect commissions or other remuneration will be paid to any individuals or organizations in connection with the offer and sale of the notes.

009.10 The offering circular shall contain a description of the federal tax aspects of ownership of the notes and a statement that the interest paid or accrued on the notes will be taxable as ordinary income to investors.

009.11 The offering circular shall contain all material information in litigation and other materials and transactions to which the issuer is a party, including:

009.11A A description of all material legal proceedings, including those that are known to be contemplated by governmental authorities, administrative bodies, or other administrative persons to which the issuer or its property is or may become a party, including the name of the court or agency in which the proceedings are pending, the date that the proceedings were instituted, the principal parties involved, a description of the factual basis underlying the proceedings and the relief sought, and the outcome of any proceeding which is no longer pending; and

009.11B A description of any transactions that may materially affect the offering or an investor's investment decision and which are not otherwise mentioned in the offering circular.

009.12 Management. The offering circular shall contain all material information concerning the issuer's management, including:

009.12A A description of the organizational structure of the issuer, including the method of choosing or replacing the members of its Board of Directors or other legal governing body;

009.12B A statement identifying all directors and executive officers, or persons having similar authority, of the issuer, and describing the functions they perform for the issuer and the dates that their terms of office expire;

009.12C A statement disclosing if any director or officer of the issuer has, during the past ten (10) years, been convicted in any criminal

proceeding (other than for traffic violations or other minor misdemeanors), is the subject of any pending criminal proceedings, was the subject of any order, judgment or decree of any court enjoining such person from any activities associated with the offer or sale of securities, or is or was the subject of any action by an administrative agency in connection with the offer or sale of securities;

009.12D A statement disclosing all direct and indirect remuneration paid by the issuer to its executive officers or directors or persons having similar authority for the issuer's last fiscal year in the aggregate, and individually, if the remuneration, which includes, but is not limited to, salaries, pensions, retirement plans and the use of the issuer's assets for personal purposes, equals or exceeds the amount requiring disclosure as set forth in the rules and regulations of the Securities and Exchange Commission; and

009.12E A description of all material employment contracts, perquisites of employment and conflicts of interests of the issuer's officers, directors, or persons having similar authority.

009.13 Financial Statements. The offering circular shall contain the issuer's audited financial statements, consisting of:

009.13A Statements of assets and liabilities (balance sheet) for its two most recent fiscal years;

009.13B Statements of revenues and expenses (income statement or aggregation of fund balances) for its three most recent fiscal years;

009.13C Statements of cash flows for its three most recent fiscal years;

009.13D A description of any recent changes in its current accounting policies; and

009.13E A copy of the report of the independent certified public accountant.

009.13F Any material adverse changes in the financial condition of the CEF during the offering period shall be promptly disclosed in an appropriate supplement, or an amendment to the offering circular.

009.13G The offering circular shall state that the CEF's current audited financial statements will be made available to investors upon written request, and will be mailed to investors within 120 days of its last fiscal year end.

010 WAIVER OF RULE. While disclosures not conforming to the provisions of this Rule shall be looked upon with disfavor, where good cause is shown, certain provisions of the Rule may be waived by the Director.